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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,938	08/08/2006	Kenneth John Woronoff	60,469-115 PUS1; OT-5256	9734
David J Gaskey Carlson Gaskey & Olds Suite 350 400 W Maple Road Birmingham, MI 48009				
EXAMINER KRUER, STEFAN				
ART UNIT 3654				
PAPER NUMBER				
MAIL DATE 09/29/2010				
DELIVERY MODE PAPER				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/588,938

Applicant(s)

WORONOFF, KENNETH JOHN

Examiner

Stefan Krueer

Art Unit

3654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3654

Continuation of 11, does NOT place the application in condition for allowance because:

With respect to applicant's arguments to the objections to the specification and drawings, said arguments were filed under petition and will be addressed accordingly. Upon cursory review of said arguments by the Examiner, Examiner maintains that said objections have merit. With respect to the applicant's argument that the term "desired" is not objectionable, for which Examiner proposed the term "upward", applicant's argument has merit. The term will be subject to interpretation accordingly.

Applicant's argument with respect to the objections to the drawing and the associated rejection of Claim 23 under USC 35, 112, 1st para., applicant's argument is not persuasive. Examiner's comments as found under the objections to the specification and the drawings, as well as the Response to Arguments, adequately address said argument.

With respect to the interpretation of the primary reference Miner in meeting the first holding device, its operation and a guide rail, Examiner contends that Miner meets the claim language as broadly interpreted under obviousness as well as in the spirit of the instant invention. That applicant argues that retractable "shear bolts" for engaging a rail and holding an upper platform with a payload at an elevation, while shear bolts of a lower, interconnected platform are retracted for subsequent extension and re-engagement of said rail upon subsequent upward travel of said lower platform, does not meet the broadly recited "... engaging a flat, vertical surface of the guide rail for preventing movement of the ... platform in the first direction and permitting movement of the platform from the maintained position in the direction opposite to the first direction" is not found to be persuasive. The platforms bear against the flat rail surface of the tower during their conjoined travel.

With respect to the teachings of Yoo, applicant's argument that Yoo "... is inconsistent with the operation of the pins 5 of Meiner..." and that the addition of Yoo with Meiner is at best a redundant device, though the latter is plausible, as reviewed in the rejections, "Meiner discloses his holding devices as preferably being shear bolts or other positive locking (fitting)/traction elements, [thereby] enabling a broad scope of traction/power transferring/positive locking elements" .

Consequently, in view of the prior art of record as applied to the claim language, applicant's argument of lack of prima facie obviousness is not found to be persuasive.